

AUG 24 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of the Commission's) GC Docket No. 93-153
Rules to Implement Section 4(g)(3))
of the Communications Act of 1934,)
as Amended, 47 U.S.C. § 154(g)(3),)
the Commission's Statutory Gift)
Acceptance Authority)

**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the exchange carrier industry. Its members provide over 98 percent of the exchange carrier-provided access lines in the U.S.

In a Notice of Proposed Rulemaking (NPRM) released June 21, 1993, the Commission is proposing to implement new section 4(g)(3) of the Communications Act which authorizes the Commission to accept unconditional gifts. The Commission is required to develop rules to preclude the acceptance of any gift that would create a conflict of interest or the appearance of a conflict of interest. USTA supports the Commission's proposals for safeguards that will permit Commission acceptance of unconditional gifts from a "prohibited" source as defined in the regulations promulgated by the Office of Government Ethics

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effective February 3, 1993.¹

The Commission is proposing to adopt structural safeguards, mandatory factors which agency officials must consider in determining whether any conflicts problems may exist, and public disclosure requirements--all of which are more than adequate to ensure that no conflicts occur in the acceptance of an unconditional gift from a prohibited source.

Structural Safeguards. The Commission should designate officials without direct regulatory or policy-making authority to be responsible for evaluating the merit of accepting such gifts. The Office of the General Counsel or the Office of the Managing Director could be likely candidates. This type of structural safeguard would allow the Commission to accept an unconditional gift without the donor knowing which official or department within the Commission ultimately received or benefited from the gift. Thus, no gift could be directed toward a specific agency official or employee and no agency official or employee with direct regulatory or policy-making authority would have the responsibility of determining whether or not to accept such a gift.

USTA supports the Commission's proposals to bar agency solicitation of gifts from prohibited sources. The Commission should be firm in articulating that regulatory work should never

¹5 CFR § 2635.

be colored by such unrelated action, implied or express. USTA agrees that if a prohibited source has expressed an unsolicited interest in offering a gift, the donor should be redirected to the designated official responsible for gift acceptance and that official could advise the donor of the Commission's requirements. USTA also supports the Commission's proposal to prohibit the acceptance of cash gifts.²

Mandatory Factors to Evaluate Potential Conflicts of Interest. The Commission has proposed several factors to evaluate potential conflicts of interest which designated agency officials would use in making conflict of interest determinations. Such factors include the extent to which the benefits of a gift accrue to an individual employee, the nature and sensitivity of any matters pending at the Commission involving the donor, the value of the gift, the frequency of gifts made by a particular donor, and the reason underlying the gift. These factors will enable the Commission to assess and identify potential conflicts of interest as required by the statute.

Public Disclosure. Finally, the Commission is proposing to keep detailed records of all gifts and to make relevant information concerning gifts that are accepted available to the public. These proposals on information availability are

²NPRM at ¶ 30.

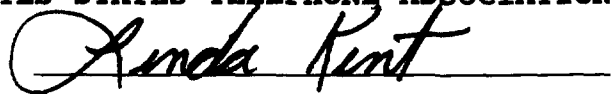
appropriate. Publication of gifts in the Federal Register may not be cost effective for the Commission. USTA does not believe that it is necessary to seek public comment on the acceptance of any gift. It is unlikely that such comments would provide any additional information which would be helpful to the Commission in assessing potential conflicts of interest.

The Commission's proposals as discussed herein will allow it to meet its statutory responsibility to ensure that unconditional gifts do not create a conflict of interest or the appearance of a conflict of interest. Therefore, USTA supports the Commission's proposal to implement section 4(g)(3).

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By:

A handwritten signature in cursive script, appearing to read "Linda Kent", is written over a horizontal line.

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